



New Jersey Department of Children and Families Policy Manual

Manual:	DCF	DCF Wide	Effective Date:
Volume:	III	Administrative Policies	
Chapter:	A	Human Resources	1-14-2008
Subchapter:	1	Human Resources	
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I. PURPOSE

The purpose of this Policy is to promote economic security for families by guaranteeing the entitlement to take a reasonable period of leave for specific family and medical care reasons.

II. SCOPE

This Policy has Department-wide applicability.

III. AUTHORITY

- N.J.S.A. 34:11B-16. Family Leave Act
- N.J.A.C. 4A:6-21A State Family Leave Act – informational regulations
- N.J.A.C. 4A:6-21B Federal Family and Medical Leave Act – Informational regulations
- N.J.A.C. 13:14-1.1 Rules implementing the Family Leave Act
- 29C.F.R. part 825 The Family and Medical Leave Act of 1993 – Federal
- See: 26 N.J.R. 3511(a), 26 N.J.R. 5002(b)
- See: 31 N.J.R. 1555(a), 31 N.J.R. 2878(a)

IV. POLICY AND PROCEDURES

Under the Federal Family and Medical Leave Act (FMLA) and the New Jersey Family Leave Act (FLA), employees are entitled to time off from work with benefits for qualifying circumstances. Although the two laws are similar, there are some differences in definition and conditions that affect an employee's entitlement to a Family Leave of Absence. If the type of leave qualifies under both Federal and State law, the leave used counts concurrently against the employee's entitlement under both laws. The FMLA and FLA supersede any existing policy or regulation that may conflict with them.

A.State Family Leave

1. 1.Eligibility

An employee must have worked at least 1000 base hours in the preceding 12 months and been employed by the employer for a least 12 months. Leave shall be given for the following purposes:

- a. The birth of a child of the employee;
- b. The placement for adoption of a child with the employee; or
- c. The serious health condition of an employee's family member (child, parent, spouse, adoptive parent, foster parent, step-parent, parent-in-law, Domestic Partner (see P.L. 2003, c. 246), or Civil Union Partner (see P.L. 2006, c. 103)).

2. .Leave Entitlements

An eligible employee is entitled to twelve (12) workweeks of Family Leave during a twenty-four (24) month period. The leave is unpaid, however, it may be taken in conjunction with the employee's earned paid leave time to maintain the employee in paid status during the leave. In all cases, the leave may be taken consecutively upon advance written notice to the employer.

- a. Leave taken because of the birth or placement for adoption of a child may commence at any time within one year after the date of birth or placement for adoption. Thus, leave for childcare may extend beyond the twelve-month period after birth or placement as long as it begins within that period.
- b. When a family member has a serious health condition, the leave may be taken on a consecutive, intermittent or reduced leave schedule.
- c. Reduced Leave is a non-consecutive leave of up to the equivalent of 12 workweeks which is taken in increments of not less than one workday, unless otherwise agreed to by the employee and employer, but less than one workweek at a time.

- 1) Reduced Leave may be scheduled for a maximum period of 24 consecutive weeks.
 - 2) A reduced leave schedule shall not result in approval of more than the maximum 12 weeks of allowable family leave.
 - 3) A reduced leave schedule for the care of a healthy child requires the employer's agreement.
- d. Intermittent leave is a non-consecutive leave comprised of intervals, each of which is at least one but less than 12 workweeks within a consecutive 12-month period.
- 1) Intermittent leave taken for a single serious health condition episode may not exceed a 12-month period.
 - 2) Intermittent leave requires the employer's agreement.

B. Federal Family and Medical Leave Act (FMLA)

1. Eligibility

An employee must have been employed by the State for at least 12 months and worked at least 1250 hours (including overtime) during the 12 month period prior to the leave request. Leave shall be given for the following purposes:

- a. Birth of a child of the employee and care for the newborn child; or
- b. Placement with the employee of a child for adoption or foster care; or
- c. Serious health condition of a child, parent, spouse, adoptive parent, foster parent, step-parent, parent-in law, Domestic Partner (see P.L. 2003, c. 246), or Civil Union Partner (see P.L. 2006, c. 103) requiring care by the employee; or
- d. Serious health condition that makes the employee unable to perform the essential functions of their position.

2. Leave Entitlements

An eligible employee is entitled to 12 weeks during a twelve-month period. The leave is unpaid, however, it may be taken in conjunction with the employee's earned paid leave time to maintain the employee in paid status during the leave. In all cases, the leave may be taken consecutively upon advance written notice to the employer. The employer determines if an employee's use of paid leave counts as FMLA, based on information from the employee.

- a. Entitled to leave taken for the birth or placement of a child for adoption or foster care expires twelve (12) months from the date of birth or placement;
- b. Leave may be taken intermittently or on a reduced leave schedule when medically necessary for a child, spouse, parent, Domestic Partner, Civil Union Partner, or for the employee's own serious health condition.
- c. Intermittent leave can be a few hours, a day, or a week, or at intervals the employee's needs require.
- d. Reduced leave schedule is a leave that reduces the usual number of days per week or hours per workday, e.g., a reduced leave would be a regular schedule of a three-day work week, or a regular schedule of working only mornings.
- e. There is no limit on the size of the increment of leave when an employee takes on an intermittent or reduced leave basis.

C. Leave Standards and Criteria

Employee's entitlement for leave under both acts will be awarded and recorded on a rolling twelve-month basis.

1. Paid or Unpaid Leave

Family Leave will be treated in the same manner as all other leaves of absence. An employee may elect to use any of the accrued paid leave time (Vacation, Administrative or Sick Leave) for the following, however Sick Leave may only be used if the child or family member is ill.

- a. The birth or placement of a child, and caring for such child;
 - b. Adoption or foster care, and caring for such child; or,
 - c. Caring for a spouse, child, parent, Domestic Partner, or Civil Union Partner who has a serious health condition. In these situations it is only permitted as provided in N.J.A.C. 4A:6-1.3 and N.J.A.C. 4A:6-1.8.
2. Family leave taken without pay shall not be deducted from seniority for layoff purposes. For all other purposes, Family Leave without pay shall be treated the same as other leaves without pay as per N.J.A.C. 4A:6-1.21A(i) and N.J.A.C. 4A:6-1.21B(j).

3. Accrued Paid Sick Leave:

For the purpose of governing the use of accrued paid leave, DCF policy requires that an employee shall exhaust all earned sick leave before being placed on unpaid leave for the employee's own serious health condition.

4. Administrative/Vacation Leave:

The employee may, at his or her discretion, utilize any or all such paid leave as part of family leave.

5. Leave for Pregnancy/Disability

Medical leave involving an expectant mother or any employee who has a serious health condition, would be covered under the FMLA. This time would therefore, be counted as part of the employee's 12-week leave complement under the FMLA.

- a. Any employee who takes leave under the FMLA because of his or her own serious health condition is still entitled to twelve weeks of leave every 24 months under the New Jersey Act for child care purposes or to care for a seriously ill spouse, child, parent, Civil Union Partner, or Domestic Partner.
- b. An employee may use accrued sick, vacation or administrative leave for pregnancy-disability purposes but shall not be required to exhaust accrued leave before taking an unpaid leave as per N.J.A.C. 4A:6-1.8(a) 1 & 2.
 - 1) An employee must first exhaust all accrued sick leave to be eligible for New Jersey Temporary Disability Insurance.
 - 2) The appointing authority shall request medical evidence that the employee is unable to perform her work because of disability due to pregnancy.

D. Employee Responsibilities

1. The employee must submit a Leave of Absence Request form (Attachment 2) to the employee's supervisor/manager for review with the necessary supporting documentation attached.

- a. Leave notice for a serious health condition of a child, parent, spouse, adoptive parent, foster parent, step-parent or parent-in-law must be given 15 days in advance or as soon as practical as per N.J.A.C.13:14-1.5.
 - b. Notice of leave for other purposes shall be provided not less than 30 days before leave is to begin, or as soon as practical;
- 2. All Family Leaves require supporting documentation which must be attached to the request for it to be considered.
 - a. .For illness or injury to the employee or the employee's immediate family, a legibly written note from the treating physician on the physician's letterhead identifying the name, address and phone number of the practice is required.
 - b. For pregnancy leave, a legibly written note from the treating physician on the physician's letterhead identifying the name, address and phone number of the practice is required.
 - c. For the adoption of a child, copies of the relevant legal documentation, including any court orders, would be required.
- 3. In addition, the employee is responsible for the following:
 - a. Meeting specified deadlines for continuation of health benefits if co-payment is required;
 - b. Advising the Office of Human Resources of the need for any modification to the Family Leave as it was originally approved at least two weeks prior to the approved return date;
 - c. Contacting the Office of Human Resources if they have not received notification of approval or disapproval of the Family Leave requested; and
 - d. Submitting documents as required requesting a leave, including reason(s) therefore, starting date and ending date.

E. Supervisor/Manager Responsibilities

- 1. Upon receipt of a Leave of Absence request, the supervisor should review it to confirm it is properly completed and includes the necessary supporting documentation.
- 2. Once it is determined that the request is properly completed and supported, the supervisor/manager will indicate on the form whether they 'Recommend' or 'Not Recommend' the leave based on operational needs of the work unit. If the 'Not

Recommend' box is checked, a reason must be provided for not recommending the leave.

3. The supervisor/manager will then forward the request to the Office of Human Resources Leave Unit (OHRLU) (Cost Code #941, P.O. Box 717 Trenton, New Jersey 08625-0717) as soon as practicable.
4. The supervisor/manager shall ensure the employee reports to work until his/her leave is approved by the OHRLU.

F. Office of Human Resources Responsibilities

1. Upon receipt of the request, the Office of Human Resources Leave Unit (OHRLU) will evaluate the request and determine whether it complies with the Departmental Policy, state and federal law.
2. The OHRLU will provide written correspondence to the employee, copied to the manager/supervisor, Regional Personnel Coordinator and the OHR Personnel Coordinator, advising whether the leave is:
 - a. Approved, what type of leave is approved, and expected date of return.
 - b. Pending, with notice of additional required information.
 - c. Disapproved with a reason why it was disapproved.
3. If the leave designated FMLA or FLA, the employee will be advised of that designation and their current FMLA/FLA entitlement balance.

Date

Kevin M. Ryan
Commissioner

Attachments:

1. [Leave of Absence, FMLA, FLA Information Sheet](#)